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Coalition, et al.*

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE COUNTY OF MONTEREY INITIATIVE  
MATTER, and

IN RE MONTEREY REFERENDUM.

CASE NO. C 06-01407 JW  
CASE NO. C 06-01730 JW  
CASE NO. C 06-02202 JW  
CASE NO. C 06-02369 JW

*MELENDEZ PLAINTIFFS' AND  
RANCHO SAN JUAN OPPOSITION  
COALITION PLAINTIFFS' NOTICE  
OF MOTION AND MOTION FOR  
SUMMARY JUDGMENT*

Judge: Hon. James Ware  
Ctrm: 8  
Date: February 27, 2007  
Time: 9:00 a.m.

1 TO ALL PARTIES HEREIN AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on February 27, 2007, at 9:00 a.m., or as soon thereafter as  
 3 the matter may be heard, before the Honorable James Ware, in Courtroom 8, 280 South 1st Street,  
 4 San Jose, California, 95113, Plaintiffs WILLIAM MELENDEZ, KEN GRAY, JYL LUTES,  
 5 CAROLYN ANDERSON, and LANDWATCH MONTEREY COUNTY, and Plaintiffs RANCHO  
 6 SAN JUAN OPPOSITION COALITION, CITIZENS FOR RESPONSIBLE GROWTH, and JULIE  
 7 ENGELL will and hereby do move for summary judgment pursuant to Federal Rule of Civil  
 8 Procedure 56. In light of the recent Ninth Circuit en banc decision in *Padilla v. Lever*, 463 F.3d  
 9 1046 (9th Cir. 2006) (en banc), which held that Section 203 of the Voting Rights Act does not apply  
 10 to private recall petitions because they are not “provided” by the State, the Voting Rights Act claims  
 11 alleged in these consolidated actions have no merit. Plaintiffs therefore request that the Court grant  
 12 their motion for summary judgment, dismissing the *Rangel v. County of Monterey* action with  
 13 prejudice, ordering the County Defendants to submit the Referendum measure at issue in the *In re*  
 14 *Monterey Referendum* action to a vote of the electorate at the June 5, 2007, county election, and  
 15 remanding the *Melendez v. Board of Supervisors* action to state court for resolution of the remaining  
 16 state law claims.

17 This Motion is made in accordance with the Court’s order dated December 27, 2006, and the  
 18 parties’ stipulated briefing schedule filed February 5, 2007. This Motion is based upon this Notice  
 19 of Motion, upon the Memorandum of Points and Authorities in Support of Motion for Summary  
 20 Judgment, upon the Declaration of Fredric D. Woocher and the exhibits attached thereto, upon the  
 21 Declaration of Chris Fitz, upon the Proposed Order Granting Plaintiffs’ Motion for Summary  
 22 Judgment, and upon any further briefing and oral argument regarding this Motion.

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1 DATE: February 7, 2007

Respectfully submitted,

2 STRUMWASSER & WOOCHER LLP  
3 Fredric D. Woocher  
4 Michael J. Strumwasser  
5 Bryce Gee

6 By                     /s/                      
Fredric D. Woocher

7 *Attorneys for Plaintiffs LandWatch Monterey*  
8 *County, et al. and Rancho San Juan Opposition*  
9 *Coalition, et al.*